IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 14642 of 2004

Between:

B.Ekantamaiah, s/o Naganna,
Permanent FP Shop Dealer, r/o Engilibanda Village,

Gooty Mandal, Anantapur District.

..... PETITIONER

AND

1 The Joint Collector, Anantapur, Ananthapur District.
2 The Revenue Divisional Officer, Anantapur, Ananthapur District.
3 The Mandal Revenue Officer, Gooty Mandal, Anantapur District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus, declaring the action of the 1st respondent in rejecting of the appeal in his proceedings L.Dis.No.K4/ATP/907/2004, dated 11-8-2004 as illegal, arbitrary and consequently direct the respondents not to give effect to the proceedings Rc.No.D1 CS/989/2004, dated 2-8-2004 of the 2nd respondent pending enquiry against the petitioner.

Counsel for the Petitioner:MR.K.SITA RAM

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following ORDER:

The petitioner is the authorized dealer in respect of the fair price shop at Isurallapalle Village, Gooty Mandal, Anantapur District. The second respondent-Revenue Divisional Officer, Anantapur issued proceedings dated 02-08-2004 suspending the authorization of the petitioner pending enquiry into the alleged irregularities in distributing the essential commodities. Against the said order, the petitioner preferred an appeal before the first respondent-Joint Collector, Anantapur. The first respondent herein by an order dated 11-08-2004 passed the following order, which is under challenge in the writ petition.

> *"Upon perusing the grounds of appeal and also the orders of Revenue Divisional Officer, Anantapu passed in the reference 1st read above, it is felt that, "there is no need to interfere with the orders of the Revenue Divisional Officer, Anantapur. Hence, the case is hereby remanded to the Revenue Divisional Officer, Anantapur for disposal after giving adequate opportunity to the dealer to explanation.""*

I have heard the learned counsel for the petitioner as well as the learned Government Pleader for Civil Supplies appearing for the respondents.

The learned counsel for the petitioner submits that the order dated 11-08-2004,

which is in the nature of a final order, cannot be sustained since the same was passed without considering any one of the contentions raised in the appeal and particularly, without affording any opportunity of hearing to the petitioner herein.

Sri K.G.Krishnamurthy, who entered caveat on behalf of one Sri B.Bhaskar, states that soonafter the suspension order, Sri B.Bhaskar has been appointed as temporary dealer for the fair price shop in question. It is also stated that for the month of August, 2004 the commodities have been released to the dealer of adjacent Fair Price Shop for distribution to the card holders.

A perusal of the impugned order shows that the first respondent has merely disposed of the appeal remanding the matter to the second respondent but he did not consider the question as to whether in the facts and circumstances of the case, the suspension of the authorization, pending enquiry is warranted. The first respondent, who is the competent authority to consider the statutory appeal, is expected to assign the reasons in support of his order. In the circumstances, the impugned order dated 11-08-2004 which was cryptic and was passed without notice to the Appellant is unsustainable and liable to be set aside.

The writ petition is accordingly disposed of setting aside the order dated 11-08-2004 with a direction to the first respondent to consider the appeal afresh and pass appropriate orders in accordance with law after affording due opportunity to all the parties concerned. Having regard to the facts and circumstances of the case, there shall also be a direction to 1st respondent to dispose of the application for stay filed by the petitioner as expeditiously as possible, preferably within a period of one week from the date of receipt of a copy of this order. No costs.

18th AUGUST, 2004.

Note: furnish c.c. in two days.

B/o

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To

1 The Joint Collector, Ananthapur, Ananthapur District
2 The Revenue Divisional Officer, Anantapur, Anantapur District
3 The Mandal Revenue Officer, Gooty Mandal, Ananthapur District

4 Two CCs to the Government Pleader for Civil Supplies, A.P.High Court Buildings, Hyderabad. (OUT)

5 Two CD copies.